

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION**

NO. 5:12-CV-00425-F

ARTHUR O. ARMSTRONG,)
)
Plaintiff,)
)
v.)
)
QUENTIN T. SUMNER,)
Senior Court Judge, Nash County, et al.,)
)
Defendants.)

)

**MEMORANDUM AND
RECOMMENDATION**

This cause comes before the Court upon a complaint filed by Plaintiff (DE-1), which was referred to the undersigned for a memorandum and recommendation on whether Plaintiff has complied with the pre-filing injunction issued by this Court in In re Armstrong, No. 5:03-CV-941, 2006 WL 3408237, at *3 (E.D.N.C. January 18, 2006), *aff'd*, No. 06-1191 (4th Cir. April 20, 2006). (DE-4).

Plaintiff's persistent filing of frivolous documents compelled this Court to enter a standing order on January 18, 2006, in order to curtail his repeated litigation abuses without unduly restricting his access to the Court. Under the pre-filing injunction, any complaint filed by Plaintiff "must specifically identify the law(s) which plaintiff alleges was (were) violated and must allege all facts with specificity." The pre-filing injunction also requires the Court to determine whether the complaint is "repetitious and/or frivolous."

Here, Plaintiff appears to complain that Judge Sumner and court clerk Rachel Joyner have conspired to discriminate against him by refusing to allow him to file certain motions in Superior Court, Nash County. According to Plaintiff, Clerk Joyner returned Plaintiff's motions to him pursuant to an order entered by Judge Sumner prohibiting Plaintiff from filing frivolous motions. From the limited facts that are alleged, the undersigned concludes that Plaintiff's complaint

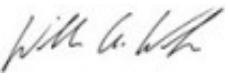
against Judge Sumner and Clerk Joyner is frivolous.

Thus, in accordance with the pre-filing injunction, the undersigned RECOMMENDS the following:

- (1) That Plaintiff's complaint be DISMISSED;
- (2) That Plaintiff be SANCTIONED \$350.00 (the amount of the filing fee); and
- (3) That an appeal from this order would be frivolous.

See, e.g., Armstrong v. Purdue, No. 5:11-CV-73-FL (E.D.N.C. Sept. 7, 2011) (dismissal order comparable to that recommended also based on pre-filing injunction).

SO RECOMMENDED in Chambers at Raleigh, North Carolina on Tuesday, July 17, 2012.



WILLIAM A. WEBB
UNITED STATES MAGISTRATE JUDGE